REMARKS / ARGUMENTS

Reconsideration and allowance of this application are respectfully requested in the light of the foregoing amendments and the following remarks.

Claims 1 - 22 are pending in the application. Claims 1, 3, 8 and 20 have been amended. No claim has been cancelled. The Examiner has acknowledged that claim 10 is directed to allowable subject matter.

Claim 1 has been amended to further define the crystallizable thermoplastic. Proper antecedent basis for the amendments is provided in the specification, page 7, l. 30, to page 8, l. 14.

Rejection of claims 3 and 8 under 35 U.S.C. § 112

Claim 8 has been rejected under 35 U.S.C. § 112, first paragraph. In an effort to overcome the rejection, it has been clarified that the molecular weight of the polymeric carbodiimide is given in g/mol, as is customary in the pertinent art.

Claim 3 stands rejected under 35 U.S.C. § 112, second paragraph. In this claim proper Markush language has been introduced and the „and/or" has been cancelled.

The Examiner is respectfully requested to reconsider and withdraw the rejections based on § 112.

Rejection of claims 1 - 5, 11, 12 and 19 - 22 under 35 U.S.C. § 102(b)

Claims 1 - 5, 11, 12, and 19 - 22 stand rejected as being allegedly anticipated by Yatsu et al. (US 4,390,683), Murschall et al. (US 5,302,427), Murschall et al. (US 5,366,796), Schuhmann et al. (US 5,554,245), Schuhmann et al. (US 5,429,862),

Schuhmann et al. (US 5,433,983), Peiffer et al. (US 5,468,527), Dries et al. (US 5,529,843), or Peiffer et al. (US 5,914,079).

This rejection is respectfully traversed. Murschall et al. `427, Murschall et al. `796, Schuhmann et al. `245, Schuhmann `862, Schuhmann `983, Peiffer `527, Dries et al. and Peiffer `079 do not disclose films based on a polyester or copolyester as set forth in present amended claim 1. They solely teach films based on polyolefin.

Yatsu et al. teaches a film based on poly(1,3-phenylene terephthalate). This is a fully aromatic polyester consisting of units of an aromatic dicarboxylic acid, i.e. of terephthalic acid, and of an aromatic diamine, i.e. of *meta*-phenylene diamine. Such a polyester is not within the scope of present amended claim 1.

Rejection of claims 1 - 9 and 11 - 22 under 35 U.S.C. § 103(a)

Claims 1 - 9 and 11 - 22 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over any of the primary references, mentioned above, in view of Murakami et al. (US 4,264,667), Matsumura et al. (US 4,517,315), Brozek et al. (US 5,138,024), Anderson, II (US 5,324,467), Rogers et al. (5,804,626), DeNicola, Jr. et al. (US 6,218,023), Wakabayashi et al. (US 6,355,336), Bland et al. (US 5,427,842), Longmoore et al. (US 6,497,965) or Nisshinbo Industries, Inc. (EP 0 803 538).

The rejection is respectfully traversed. Murakami et al. teaches a transparent film having antistatic properties and containing (i) a polyester in which at least 80 mol-% of the monomer units are based on terephthalic acid and on glycol, (ii) a block copolyester having crystalline polyester segments with a high melting point and soft polymer segments with a low melting point, and (iii) a sulfonic acid metal salt and/or a phosphoric acid metal salt. Following extrusion, the film is drawn at least uniaxially and then heat-treated (col. 1, l. 7 - 9; col. 2, l. 30 - 50). It is the metal salt that provides the antistatic properties to the film. Murakami teaches UV absorbers, antioxidants and fire retardants as optional

ingredients (col. 7, l. 8 - 11), but does not contemplate or even suggest hydrolysis stabilizers. The combination of Murakami et al. with any of the primary references therefore does not render obvious the subject matter of the present claims.

The polyester film as taught by Matusumura et al. in fact may be biaxially stretched and, if desired, also heat-set (col. 11, l. 29 - 31). But this is not enough to cure the deficiencies of the primary references.

Brozek et al. teaches specific copolyesters and a film made therefrom (col. 1, l. 6 - 9). The copolyester is a random copolyester containing units of at least four monomers, namely (1) an aromatic dicarboxylic acid, (2) ethylene glycol, (3) an aromatic dicarboxylic acid substituted with a sulfonic acid group and (4) a low molecular weight polyethylene glycol. The film may further contain an organic phosphite or phosphate stabilizer (col. 7, l. 41 et seq.). In addition to the organic phosphite or phosphate an antioxidant may be employed, the antioxidant preferably being a hindered phenol compound such as „®Irganox 1010" (col. 9, l. 61 - 67). Even if, arguably, the phosphites and hindered phenols were used in a film as suggested in any of the primary references, this would not result in a film as presently claimed.

Anderson, II discloses a multilayer laminate film comprising a polypropylene layer adhered to a copolyester layer (col. 2, l. 44 - 48). The polypropylene layer may contain additives such as radiation stabilizers, flame retardants and the like (col. 3, l. 1 - 5). This disclosure does not provide motivation to employ hydrolysis stabilizers in a polyester film.

Rogers et al. teach polyester fibers and films based on naphthalenedicarboxylic acid, especially, naphthalene-2,6-dicarboxylic acid, and ethylene glycol. As a stabilizer, the fibers and films further contain a polymeric carbodiimide. Films based on naphthalene-dicarboxylic acid and ethylene glycol (PEN) are not within the scope of present amend claim 1. The proffered combination of Rogers et al. with any of the primary references hence fails to teach the film as claimed in present amended claim 1.

DeNicola, Jr. et al. teaches a coextruded polyolefin laminate containing at least one layer of a polypropylene grafted with acrylic and/or styrenic monomers and at least one other polypropylene layer. The layer of the grafted polypropylene may further contain a UV stabilizer, such as ®Irganox 1010 (col. 15, l. 12. - 25). A combination of DeNicola, Jr. with any of the primary references would not have resulted in a polyester film as presently claimed.

Wakabayashi et al. discloses a multilayer packaging film comprising a core layer of a polytetramethyleneterephthalate resin and, on both surfaces of the core layer, a layer based on a polyolefin resin. To the core layer other substances may be added, for example, an antioxidant such as a phosphite or hindered phenol and a heat stabilizer. The presently claimed film does not comprise any polyolefin layers. A person skilled in the art would therefore not have found any motivation to combine Wakabayashi et al. with any of the primary references.

Longmoore et al. teaches polypropylene films which may contain conventional additives, such as an antioxidant or a flame retardant (col. 5, l. 47). Furthermore, the film may be corona-treated (col. 6, l. 6). The flame retardant of Longmoore et al. is not comparable with the hydrolysis stabilizer recited in present claim 1. Furthermore, in the reference the additives are employed in a polypropylene film, not in a polyester film. The combination of references as suggested by the PTO cannot render obvious the invention of present claim 1.

Bland et al. discloses a tear-resistant film comprising more than five layers. The layers are made from a stiff polyester or copolyester and a ductile polymeric material (col. 3, l. 34 - 39). Optionally, intermediate layers may be arranged between the layers. Each of the layers may contain conventional adjuvants, additives, colorants, extenders, antioxidants, thermal stabilizers, UV-stabilizers, plasticizers and the like. Hydrolysis stabilizers are not contemplated. The combination of Bland et al. with any of the primary

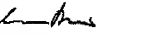
references hence cannot render obvious the polyester film as presently claimed.

Nisshinbo Industries, Inc. teaches carbodiimides as hydrolysis stabilizers for an ester group containing resin, especially a polyesterurethane. According to the reference, the resin may be processed into a film having a relatively high thickness of about 500 µm (see e.g. Examples 3 and 4). The reference does not teach the use of polymeric carbodiimides in biaxially stretched and heat-set films which have a much lower thickness. A person skilled in the art would not have contemplated using a polymeric carbodiimide in such a biaxially stretched and heat-set film since he would have expected that even such polymeric carbodiimides show a significant volatility under the conditions employed during stretching and heat-setting. A combination of Nisshinbo Industries, Inc. with any of the primary references hence would not have resulted in a film as claimed in present claim 1.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Respectfully submitted



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